

(D) a plan to decommission any temporary roads established to carry out the proposal.

(2) Project implementation

Amounts transferred to the Secretary from the Fund shall be used to carry out ecological restoration treatments that are—

(A) consistent with the proposal and strategy; and

(B) identified through the collaborative process described in subsection (b)(2).

(3) Annual report

The Secretary, in collaboration with the Secretary of the Interior and interested persons, shall prepare an annual report on the accomplishments of each selected proposal that includes—

(A) a description of all acres (or other appropriate unit) treated and restored through projects implementing the strategy;

(B) an evaluation of progress, including performance measures and how prior year evaluations have contributed to improved project performance;

(C) a description of community benefits achieved, including any local economic benefits;

(D) the results of the multiparty monitoring, evaluation, and accountability process under paragraph (4); and

(E) a summary of the costs of—

(i) treatments; and

(ii) relevant fire management activities.

(4) Multiparty monitoring

The Secretary shall, in collaboration with the Secretary of the Interior and interested persons, use a multiparty monitoring, evaluation, and accountability process to assess the positive or negative ecological, social, and economic effects of projects implementing a selected proposal for not less than 15 years after project implementation commences.

(h) Report

Not later than 5 years after the first fiscal year in which funding is made available to carry out ecological restoration projects under the program, and every 5 years thereafter, the Secretary, in consultation with the Secretary of the Interior, shall submit a report on the program, including an assessment of whether, and to what extent, the program is fulfilling the purposes of this chapter, to—

(1) the Committee on Energy and Natural Resources of the Senate;

(2) the Committee on Appropriations of the Senate;

(3) the Committee on Natural Resources of the House of Representatives; and

(4) the Committee on Appropriations of the House of Representatives.

(Pub. L. 111–11, title IV, §4003, Mar. 30, 2009, 123 Stat. 1141.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in subsec. (a)(1), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (a)(2), is Pub. L. 91–190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

Section 7125 of this title, referred to in subsec. (b)(2)(B)(ii), was in the original “section 205 of Public Law 106–393 (16 U.S.C. 500 note)” and was translated as referring to section 205 of Pub. L. 106–393 as added by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3905, which is classified to section 7125 of this title. A prior section 205 of Pub. L. 106–393 containing substantially similar provisions was set out in a note under section 500 of this title prior to repeal by Pub. L. 110–343, div. C, title VI, §601(a), Oct. 3, 2008, 122 Stat. 3893.

§ 7304. Authorization of appropriations

There are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out this chapter.

(Pub. L. 111–11, title IV, §4004, Mar. 30, 2009, 123 Stat. 1147.)

CHAPTER 93—AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Sec.

7401. Purpose.

7402. Definitions.

7403. Duties and authorities of the Secretary.

7404. Authorization or denial of port entry.

7405. Inspections.

7406. Prohibited acts.

7407. Enforcement.

7408. International cooperation and assistance.

7409. Relationship to other laws.

§ 7401. Purpose

The purpose of this chapter is to implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

(Pub. L. 114–81, title III, §302, Nov. 5, 2015, 129 Stat. 664.)

SHORT TITLE

Pub. L. 114–81, title III, §301, Nov. 5, 2015, 129 Stat. 664, provided that: “This title [enacting this chapter] may be cited as the ‘Port State Measures Agreement Act of 2015’.”

§ 7402. Definitions

As used in this chapter:

(1) The term “Agreement” means the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, done at the Food and Agriculture Organization of the United Nations, in Rome, Italy, November 22, 2009, and signed by the United States November 22, 2009.

(2) The term “IUU fishing” means any activity set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.

(3) The term “listed IUU vessel” means a vessel that is included in a list of vessels having engaged in IUU fishing or fishing-related

activities in support of IUU fishing that has been adopted by a regional fisheries management organization of which the United States is a member, or a list adopted by a regional fisheries management organization of which the United States is not a member if the Secretary determines the criteria used by that organization to create the IUU list is comparable to criteria adopted by RFMOs of which the United States is a member for identifying IUU vessels and activities.

(4) The term “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) The term “person” has the same meaning as that term has in section 3 of the Magnuson-Stevens Act (16 U.S.C. 1802).

(6) The terms “RFMO” and “regional fisheries management organization” mean a regional fisheries management organization (as that term is defined by the United Nation’s¹ Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing) that is recognized by the United States.

(7) The term “Secretary” means the Secretary of Commerce or his or her designee.

(8) The term “vessel” means any vessel, ship of another type, or boat used for, equipped to be used for, or intended to be used for, fishing or fishing-related activities, including container vessels that are carrying fish that have not been previously landed.

(9) The term “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(10) The term “fishing”—

(A) except as provided in subparagraph (B), means—

(i) the catching, taking, or harvesting of fish;

(ii) the attempted catching, taking, or harvesting of fish;

(iii) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(iv) any operations at sea in support of, or in preparation for, any activity described in clauses (i) through (iii); and

(B) does not include any scientific research activity that is conducted by a scientific research vessel.

(Pub. L. 114–81, title III, §303, Nov. 5, 2015, 129 Stat. 664.)

REFERENCES IN TEXT

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in par. (4), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

¹ So in original.

§ 7403. Duties and authorities of the Secretary

(a) Regulations

The Secretary may, as needed, promulgate such regulations—

(1) in accordance with section 553 of title 5;

(2) consistent with provisions of this chapter;¹ and

(3) with respect to enforcement measures, in consultation with the Secretary of the department in which the Coast Guard is operating;

as may be necessary to carry out the purposes of this chapter, to the extent that such regulations are not already promulgated.

(b) Ports of entry

The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, may designate and publicize the ports to which vessels may seek entry. No port may be designated under this section that has not also been designated as a port of entry for customs reporting purposes pursuant to section 1433 of title 19¹ or that is not specified under an existing international fisheries agreement.

(c) Notification

The Secretary shall provide notification of the denial of port entry or the use of port services for a vessel under section 7404 of this title, the withdrawal of the denial of port services for a foreign vessel, the taking of enforcement action pursuant to section 7405 of this title with respect to a foreign vessel, or the results of any inspection of a foreign vessel conducted pursuant to this chapter to the flag nation of the vessel and, as appropriate, to the nation of which the vessel’s master is a national, relevant coastal nations, RFMOs, the Food and Agriculture Organization of the United Nations, and other relevant international organizations.

(d) Confirmation that fish were taken in accordance with conservation and management measures

The Secretary may request confirmation from the flag state of a foreign vessel that the fish on board a foreign vessel in a port subject to the jurisdiction of the United States were taken in accordance with applicable RFMO conservation and management measures.

(Pub. L. 114–81, title III, §304, Nov. 5, 2015, 129 Stat. 665.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(2), was in the original “the title” and was translated as meaning “this title” to reflect the probable intent of Congress.

Section 1433 of title 19, referred to in subsec. (b), was in the original a reference to “section 1433 of title 19, United States Code” but probably should have been a reference to section 433 of the Tariff Act of 1930, act June 17, 1930, ch. 497, which is classified to section 1433 of Title 19, Customs Duties.

§ 7404. Authorization or denial of port entry

(a) Submission of information required under Agreement

(1) In general

A vessel described in paragraph (2) seeking entry to a port that is subject to the jurisdic-

¹ See References in Text note below.

tion of the United States must submit to the Secretary of the department in which the Coast Guard is operating information as required under the Agreement in advance of its arrival in port. The Secretary of the department in which the Coast Guard is operating shall provide that information to the Secretary.

(2) Covered vessels

A vessel referred to in paragraph (1) is any vessel that—

- (A) is not documented under chapter 121 of title 46; and
- (B) is not numbered under chapter 123 of that title.

(b) Decision to authorize or deny port entry

(1) Decision

The Secretary shall decide, based on the information submitted under subsection (a), whether to authorize or deny port entry by the vessel, and shall communicate such decision to—

- (A) the Secretary of the department in which the Coast Guard is operating; and
- (B) the vessel or its representative.

(2) Authorization or denial of entry

The Secretary of the department in which the Coast Guard is operating shall authorize or deny entry to vessels to which such a decision applies.

(3) Vessels to which entry may be denied

The Secretary of the department in which the Coast Guard is operating may deny entry to any vessel to which such a decision applies—

- (A) that is described in subsection (a)(2); and
- (B) that—
 - (i) is a listed IUU vessel; or
 - (ii) the Secretary of Commerce has reasonable grounds to believe—
 - (I) has engaged in IUU fishing or fishing-related activities in support of such fishing; or
 - (II) has violated this chapter.

(c) Denial of use of port

If a vessel described in subsection (a)(2) is in a port that is subject to the jurisdiction of the United States, the Secretary of the department in which the Coast Guard is operating, at the request of the Secretary, shall deny such vessel the use of the port for landing, transshipment, packaging and processing of fish, refueling, resupplying, maintenance, and drydocking, if—

- (1) the vessel entered without authorization under subsection (b);
- (2) the vessel is a listed IUU vessel;
- (3) the vessel is not documented under the laws of another nation;
- (4) the flag nation of the vessel has failed to provide confirmation requested by the Secretary that the fish on board were taken in accordance with applicable RFMO conservation and management measures; or
- (5) the Secretary has reasonable grounds to believe—
 - (A) the vessel lacks valid authorizations to engage in fishing or fishing-related activi-

ties as required by its flag nation or the relevant coastal nation;

(B) the fish on board were taken in violation of foreign law or in contravention of any RFMO conservation and management measure; or

(C) the vessel has engaged in IUU fishing or fishing-related activities in support of such fishing, including in support of a listed IUU vessel, unless it can establish that—

- (i) it was acting in a manner consistent with applicable RFMO conservation and management measures; or
- (ii) in the case of the provision of personnel, fuel, gear, and other supplies at sea, the vessel provisioned was not, at the time of provisioning, a listed IUU vessel.

(d) Exceptions

Notwithstanding subsections (b) and (c), the Secretary of the department in which the Coast Guard is operating may allow port entry or the use of port services—

- (1) if they are essential to the safety or health of the crew or safety of the vessel;
- (2) to allow, where appropriate, for the scrapping of the vessel; or
- (3) pursuant to an inspection or other enforcement action.

(Pub. L. 114-81, title III, §305, Nov. 5, 2015, 129 Stat. 666.)

§ 7405. Inspections

The Secretary, and the Secretary of the department in which the Coast Guard is operating, shall conduct foreign vessel inspections in ports subject to the jurisdiction of the United States as necessary to achieve the purposes of the Agreement and this chapter. If, following an inspection, the Secretary has reasonable grounds to believe that a foreign vessel has engaged in IUU fishing or fishing-related activities in support of such fishing, the Secretary may take enforcement action under this chapter or other applicable law, and shall deny the vessel the use of port services, in accordance with section 7404 of this title.

(Pub. L. 114-81, title III, §306, Nov. 5, 2015, 129 Stat. 667.)

§ 7406. Prohibited acts

It is unlawful for any person subject to the jurisdiction of the United States—

- (1) to violate any provision of this chapter or the regulations issued under this chapter;
- (2) to refuse to permit any authorized officer to board, search, or inspect a vessel that is subject to the person's control in connection with the enforcement of this chapter or the regulations issued under this chapter;
- (3) to submit false information pursuant to any requirement under this chapter or the regulations issued under this chapter; or
- (4) to commit any offense enumerated in paragraph (4), (5), (7), or (9) of section 707(a)¹ of the Western and Central Pacific Fisheries

¹ See References in Text note below.

Convention Implementation Act (16 U.S.C. 6906(a)).

(Pub. L. 114-81, title III, §307, Nov. 5, 2015, 129 Stat. 667.)

REFERENCES IN TEXT

Section 707(a) of the Western and Central Pacific Fisheries Convention Implementation Act, referred to in par. (4), probably means section 507(a) of title V of Pub. L. 109-479, which is classified to section 6906(a) of this title.

§ 7407. Enforcement

(a) Existing authorities and responsibilities

(1) Authorities and responsibilities

The authorities and responsibilities under subsections (a), (b), and (c) of section 1861 of this title and subsection (f) of section 1858 of this title and paragraphs (2), (3), and (7) of section 2439(b) of this title shall apply with respect to enforcement of this chapter.

(2) Included vessels

For purposes of enforcing this chapter, any reference in such paragraphs and subsections to a “vessel” or “fishing vessel” includes all vessels as defined in section 7402(8) of this title.

(3) Application of other provisions

Such paragraphs and subsections apply to violations of this chapter and any regulations promulgated under this chapter.

(b) Civil enforcement

(1) Civil administrative penalties

(A) In general

Any person who is found by the Secretary (after notice and opportunity for a hearing in accordance with section 554 of title 5) to have committed an act prohibited under section 7406 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall be consistent with the amount under section 1858(a) of this title.

(B) Compromise or other action by secretary

The Secretary shall have the same authority as provided in section 1858(e) of this title with respect to a violation of this chapter.¹

(2) In rem jurisdiction

For purposes of this chapter, the conditions for in rem liability shall be consistent with section 1858(d) of this title.

(3) Action upon failure to pay assessment

If any person fails to pay an assessment of a civil penalty under this chapter after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

¹ See References in Text note below.

(c) Forfeiture

(1) In general

Any foreign vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or the fair market value thereof) imported or possessed in connection with or as² result of the commission of any act prohibited by section 7406 of this title shall be subject to forfeiture under section 1860 of this title.

(2) Application of the customs laws

All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(3) Presumption

For the purposes of this section there is a rebuttable presumption that all fish, or components thereof, found on board a vessel that is used or seized in connection with a violation of this chapter (including any regulation promulgated under this chapter¹) were taken, obtained, or retained as a result of IUU fishing or fishing-related activities in support of IUU fishing.

(d) Criminal enforcement

Any person (other than a foreign government agency, or entity wholly owned by a foreign government) who knowingly commits an act prohibited by section 7406 of this title shall be subject to subsections (b) and (c) of section 1859 of this title.

(e) Payment of storage, care, and other costs

Any person assessed a civil penalty for, or convicted of, any violation of this chapter (including any regulation promulgated under this chapter) and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

(Pub. L. 114-81, title III, §308, Nov. 5, 2015, 129 Stat. 668.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1)(B) and the second place appearing in subsec. (c)(3), was in the original “this Act” and was translated as meaning “this title” to reflect the probable intent of Congress.

² So in original. The word “a” probably should appear.

§ 7408. International cooperation and assistance**(a) Assistance to developing nations and international organizations**

Consistent with existing authority and the availability of funds, the Secretary shall provide appropriate assistance to developing nations and international organizations of which such nations are members to assist those nations in meeting their obligations under the Agreement.

(b) Personnel, services, equipment, and facilities

In carrying out subsection (a), the Secretary may, by agreement, on a reimbursable or non-reimbursable basis, utilize the personnel, services, equipment, and facilities of any Federal, State, local, or foreign government or any entity of any such government.

(Pub. L. 114–81, title III, §309, Nov. 5, 2015, 129 Stat. 669.)

§ 7409. Relationship to other laws**(a) In general**

Nothing in this chapter shall be construed to displace any requirements imposed by the customs laws of the United States or any other laws or regulations enforced or administered by the Secretary of Homeland Security. Where more stringent requirements regarding port entry or access to port services exist under other Federal law, those more stringent requirements shall apply. Nothing in this chapter shall affect a vessel's entry into port, in accordance with international law, for reasons of force majeure or distress.

(b) United States obligations under international law

This chapter shall be interpreted and applied in accordance with United States obligations under international law.

(Pub. L. 114–81, title III, §310, Nov. 5, 2015, 129 Stat. 669.)

CHAPTER 94—NATIONAL OCEANS AND COASTAL SECURITY

Sec.	
7501.	Definitions.
7502.	Purposes and agreements.
7503.	National Oceans and Coastal Security Fund.
7504.	Eligible uses.
7505.	Grants.
7506.	Annual report.
7507.	Funding.

§ 7501. Definitions

In this chapter:

(1) Coastal county

The term “coastal county” has the meaning given the term by the National Oceanic and Atmospheric Administration in the document entitled “NOAA’s List of Coastal Counties for the Bureau of the Census” (or similar successor document).

(2) Coastal State

The term “coastal State” has the meaning given the term “coastal state” in section 1453 of this title.

(3) Foundation

The term “Foundation” means the National Fish and Wildlife Foundation established by section 3701(a) of this title.

(4) Fund

The term “Fund” means the National Oceans and Coastal Security Fund established under section 7503(a) of this title.

(5) Indian tribe

The term “Indian tribe” means any federally recognized Indian tribe.

(6) Administrator

Except as otherwise specifically provided, the term “Administrator” means the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

(7) Tidal shoreline

The term “tidal shoreline” has the meaning given that term pursuant to section 923.110(c)(2)(i) of title 15, Code of Federal Regulations, or a similar successor regulation.

(Pub. L. 114–113, div. O, title IX, §902, Dec. 18, 2015, 129 Stat. 3031.)

SHORT TITLE

Pub. L. 114–113, div. O, title IX, §901, Dec. 18, 2015, 129 Stat. 3031, provided that: “This title [enacting this chapter] may be cited as the ‘National Oceans and Coastal Security Act’.”

§ 7502. Purposes and agreements**(a) Purposes**

The purposes of this chapter are to better understand and utilize the oceans, coasts, and Great Lakes of the United States, and ensure present and future generations will benefit from the full range of ecological, economic, social, and recreational opportunities, security, and services these resources are capable of providing.

(b) Agreements

The Administrator and the Foundation may enter into such agreements as may be necessary to carry out the purposes of this chapter.

(Pub. L. 114–113, div. O, title IX, §903, Dec. 18, 2015, 129 Stat. 3031.)

§ 7503. National Oceans and Coastal Security Fund**(a) Establishment**

The Administrator and the Foundation are authorized to establish the National Oceans and Coastal Security Fund as a tax exempt fund to further the purposes of this chapter.

(b) Deposits**(1) In general**

There shall be deposited into the Fund amounts appropriated or otherwise made available to carry out this chapter.

(2) Prohibitions on donations from foreign governments

No amounts donated by a foreign government, as defined in section 7342 of title 5, may be deposited into the Fund.

(c) Requirements

Any amounts received by the Foundation pursuant to this chapter shall be subject to the pro-